

## **Assembly Bill No. 1074**

### **CHAPTER 297**

An act to add Section 1714.55 to the Civil Code, relating to personal liability, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 2011. Filed with  
Secretary of State September 21, 2011.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

AB 1074, Fuentes. Personal liability immunity: telecommunications service providers.

Existing law, the Warren-911-Emergency Assistance Act, requires every local public agency to establish and operate a telephone system that automatically connects a person dialing 9-1-1 to an established public safety answering point through normal telephone service facilities. Under existing law, a telecommunications service provider is generally liable for any claim, damage, or loss caused by their conduct.

This bill would provide that a provider of telecommunications service, or other service, that is involved in providing 9-1-1 service, as defined, in accordance with the Warren-911-Emergency Assistance Act is not liable for any civil claim, damage, or loss caused by an act or omission in the design, development, maintenance, or provision of 9-1-1 service, unless the act or omission that proximately caused the claim, damage, or loss constituted gross negligence, wanton or willful misconduct, or intentional misconduct.

This bill would declare that it is to take effect immediately as an urgency statute.

*The people of the State of California do enact as follows:*

SECTION 1. Section 1714.55 is added to the Civil Code, immediately following 1714.5, to read:

1714.55. (a) A retail or wholesale service provider of telecommunications service, or other service, involved in providing 9-1-1 service in accordance with the Warren-911-Emergency Assistance Act (Article 6 (commencing with Section 53100) of Chapter 1 of Part 1 of Division 2 of Title 5 of the Government Code), shall not be liable for any civil claim, damage, or loss caused by an act or omission in the design, development, installation, maintenance, or provision of 9-1-1 service, unless the act or omission that proximately caused the claim, damage, or loss constituted gross negligence, wanton or willful misconduct, or intentional misconduct.

(b) For purposes of this section:

(1) “Public safety agency” means a public safety agency as defined in accordance with the Warren-911-Emergency Assistance Act (Article 6 (commencing with Section 53100) of Chapter 1 of Part 1 of Division 2 of Title 5 of the Government Code).

(2) “9-1-1 service” means a telecommunications service, or other wireline or wireless service, that provides to the user of the public telephone system the ability to reach a public safety agency by utilizing the digits 9-1-1 or otherwise facilitates the provision of emergency services pursuant to the Warren-911-Emergency Assistance Act (Article 6 (commencing with Section 53100) of Chapter 1 of Part 1 of Division 2 of Title 5 of the Government Code). “9-1-1 service” includes a 9-1-1 service that utilizes in whole or in part an Internet Protocol.

(c) This section shall not apply to services provided under tariff.

(d) This section shall not be construed to modify the liability of a manufacturer, distributor, or other person arising from a claim, damage, or loss, related to the operation or performance of an end-user device that is not related to the provision of 9-1-1 service.

SEC. 2. The Legislature finds and declares that the general public increasingly relies on wireless telephones for their primary means of communication, and that more 9-1-1 calls are now placed on wireless telephones than on traditional landline telephones. People expect to be able to call for help using the technology that they use for their everyday communications. Next Generation 9-1-1 (NG 9-1-1), which utilizes Internet Protocol-based communication technology, will improve a 9-1-1 operator’s ability to locate a wireless caller who cannot speak or give their location, and make possible future applications that will allow emergency responders to receive text messages, real-time images of the site of an emergency before they arrive on the scene, telemetric data from crash sensors in automobiles even when the injured occupants cannot call 9-1-1, and a wealth of other data that can save lives, including their own. NG 9-1-1 involves service providers beyond the traditional landline telephone companies that have provided 9-1-1 service for decades. The Federal Communications Commission has an open proceeding to adopt the rapid adoption of NG 9-1-1 by the states. It is the intent of the Legislature that state law should be amended to encourage qualified service providers beyond traditional landline telephone companies to develop NG 9-1-1 services, and that California should lead the nation in the deployment of NG 9-1-1.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to exempt telecommunications service providers involved in providing 9-1-1 service from liability for a civil claim, damage, or loss

caused by an act or omission relating to the 9-1-1 service, as specified, at the earliest time possible, it is necessary that this act take effect immediately.

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